

Decision No. 54547

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 PUBLISHERS MOTOR TRANSPORT, a corpora-)
 tion, and HILLS TRANSPORTATION CO.,)
 a corporation, for a Certificate of) Application No. 36253
 Public Convenience and Necessity to)
 operate as a highway common carrier)
 between points in California.)

Willard S. Johnson, for applicants.
Russell Bevans, for the Draymen's Association
 of San Francisco, interested party.
Marvin Handler, for Motor Freight Line, Lodi
 Truck Service and Warren Transportation Company;
Ralph T. Close, for Western Truck Lines, Ltd.; and
Frederick W. Mielke, for Delta Lines, Inc.,
 California Motor Express, Ltd., California Motor
 Transport Co., Ltd., Merchants Express Corporation,
 Southern California Freight Lines, Southern
 California Freight Forwarders, Valley Motor Lines,
 Inc., Valley Express Co. and Willigs Freight Lines;
 protestants.

O P I N I O N

Publishers Motor Transport and Hills Transportation Co.
 are engaged in the transportation of property in California pursuant
 to permits issued by this Commission.

Applicants seek an order authorizing Hills Transportation
 Co. to conduct service as a highway common carrier for the trans-
 portation of general commodities, with certain exceptions, from
 San Francisco Territory to Los Angeles Basin Territory, San Diego
 Territory and various off-route and intermediate points, and from
 Los Angeles Basin Territory to San Francisco Territory, Sacramento
 Territory and various off-route, beyond and intermediate points.

Notice of filing of the application was given all common
 carriers subject to the jurisdiction of this Commission.

A public hearing was held at San Francisco on November 19, 1956 before Examiner Carl Silverhart.

Protestants did not present testimony concerning the application but engaged in cross-examination of applicant Hills Transportation Co.

The record shows that applicants are affiliate corporations, the entire stock in each being owned by E. A. Hills, who serves as president and principal managing officer of each corporation. Applicant Publishers Motor Transport has stated that, in the event a certificate of public convenience and necessity is granted to Hills Transportation Co., it will not engage in the transportation of property between the same points or areas encompassed by such certificate.

Upon consideration of the allegations of the application, the representations filed pursuant to the above-mentioned notice and the evidence adduced at the hearing, the Commission finds that public convenience and necessity require that the application be granted to the extent set forth in the ensuing order. It appears that applicant Hills Transportation Co. possesses the experience, equipment, personnel and financial resources to institute and maintain the operation authorized herein.

Applicant Hills Transportation Co. is hereby placed on notice that operative rights, as such, do not constitute a class of property which may be capitalized or used as an element of value in rate fixing for any amount of money in excess of that originally paid to the State as the consideration for the grant of such rights. Aside from their purely permissive aspect, such rights extend to the holder a full or partial monopoly of a class of business over a particular route. This monopoly feature may be changed or destroyed at any time by the State, which is not in any respect limited as to the number of rights which may be given.

O R D E R

A public hearing having been held and based upon the evidence adduced therein and the application and representations filed herein,

IT IS ORDERED:

(1) That a certificate of public convenience and necessity is granted to Hills Transportation Co., a corporation, authorizing it to operate as a highway common carrier as defined by Section 213 of the Public Utilities Code for the transportation of property between the points as more particularly set forth in Appendix A and Appendix B attached hereto and made a part hereof.

(2) That in providing service pursuant to the certificate herein granted, applicant shall comply with and observe the following service regulations:

(a) Within thirty days after the effective date hereof, applicant shall file a written acceptance of the certificate herein granted. By accepting the certificate of public convenience and necessity herein granted, applicant is placed on notice that it will be required, among other things, to file annual reports of its operations and to comply with and observe the safety rules and other regulations of the Commission's General Order No. 99. Failure to file such reports, in such form and at such time as the Commission may direct, or to comply with and observe the provisions of General Order No. 99, may result in a cancellation of the operating authority granted by this decision.

(b) Within sixty days after the effective date hereof, and on not less than ten days' notice to the Commission and the public, applicant shall establish the service herein authorized and file in triplicate, and concurrently make effective, tariffs satisfactory to the Commission.

(3) That immediately following the making of the filings required by and pursuant to the provisions of paragraph (2)(a) and (b) above set forth, the Secretary of the Commission is directed to

amend Radial Highway Common Carrier Permit No. 38-6397 and Highway Contract Carrier Permit No. 38-6398 by inserting in each such permit the following provision:

Publishers Motor Transport shall not engage in the transportation of property between San Francisco Territory as described in Minimum Rate Tariff No. 2, on the one hand, and Los Angeles Territory as described in Minimum Rate Tariff No. 2, Anaheim, Santa Ana and San Diego, on the other hand.

The effective date of this order shall be ninety days after the date hereof.

Dated at San Francisco, California, this 19th day of FEBRUARY, 1957.

[Signature]
President
[Signature]
[Signature]
[Signature]

Commissioners

Commissioner Rex Hardy, being necessarily absent, did not participate in the disposition of this proceeding.

Hills Transportation Co., by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to transport general commodities between San Francisco Territory (as more particularly described in Appendix B attached hereto), on the one hand, and Los Angeles Territory (as more particularly described in Appendix B attached hereto), Anaheim, Santa Ana and San Diego, on the other hand. This authority does not include the right to render service to, from or between intermediate points.

Applicant shall not transport any shipments of:

1. Used household goods and personal effects not packed in accordance with the crated property requirements set forth in paragraph (d) of Item No. 10-C of Minimum Rate Tariff No. 4-A.
2. Automobiles, trucks and buses, viz.: new and used, finished or unfinished passenger automobiles (including jeeps), ambulances, hearses and taxis; freight automobiles, automobile chassis, trucks, truck chassis, truck trailers, trucks and trailers combined, buses and bus chassis.
3. Livestock, viz.: bucks, bulls, calves, cattle, cows, dairy cattle, ewes, goats, hogs, horses, kids, lambs, oxen, pigs, sheep, sheep camp outfits, sows, steers, stags or swine.
4. Commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerated equipment.
5. Liquids, compressed gases, commodities in semi-plastic form and commodities in suspension in liquids in bulk, in tank trucks, tank trailers, tank semitrailers or a combination of such highway vehicles.

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6. Commodities when transported in bulk in dump trucks or in hopper-type trucks.
7. Commodities when transported in motor vehicles equipped for mechanical mixing in transit.

End of Appendix A

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SAN FRANCISCO TERRITORY includes that area embraced by the following boundary: Beginning at the point the San Francisco-San Mateo County Boundary Line meets the Pacific Ocean; thence easterly along said boundary line to a point 1 mile west of U.S. Highway No. 101; southerly along an imaginary line 1 mile west of and paralleling U.S. Highway No. 101 to its intersection with the corporate boundary of the City of San Jose; southerly, easterly and northerly along said corporate boundary to its intersection with State Highway No. 17; northerly along State Highway No. 17 to Warm Springs; northerly along the unnumbered highway via Mission San Jose and Niles to Hayward; northerly along Foothill Boulevard to Seminary Avenue; easterly along Seminary Avenue to Mountain Boulevard; northerly along Mountain Boulevard and Moraga Avenue to Estates Drive; westerly along Estates Drive, Harbord Drive and Broadway Terrace to College Avenue; northerly along College Avenue to Dwight Way; easterly along Dwight Way to the Berkeley-Oakland boundary line; northerly along said boundary line to the campus boundary of the University of California; northerly and westerly along the campus boundary of the University of California to Euclid Avenue; northerly along Euclid Avenue to Marin Avenue; westerly along Marin Avenue to Arlington Avenue; northerly along Arlington Avenue to U.S. Highway No. 40 (San Pablo Avenue); northerly along U.S. Highway No. 40 to and including the City of Richmond; southwesterly along the highway extending from the City of Richmond to Point Richmond; southerly along an imaginary line from Point Richmond to the San Francisco Waterfront at the foot of Market Street; westerly along said water front and shore line to the Pacific Ocean; southerly along the shore line of the Pacific Ocean to point of beginning.

LOS ANGELES TERRITORY includes that area embraced by the following boundary: Beginning at the intersection of Sunset Boulevard and U.S. Highway No. 101, Alternate; thence northeasterly on Sunset Boulevard to State Highway No. 7; northerly along State Highway No. 7 to State Highway No. 118; northeasterly along State Highway No. 118 through and including the City of San Fernando; continuing northeasterly and southeasterly along State Highway No. 118 to and including the City of Pasadena; easterly along U.S. Highway No. 66 to State Highway No. 19; southerly along State Highway No. 19 to Lower Azusa Road; easterly on Lower Azusa Road to its intersection with the San Gabriel River; southerly along the west bank of the San Gabriel River to Beverly Boulevard; southeasterly on Beverly Boulevard to Painter Avenue in the City of Whittier; southerly on Painter Avenue to State Highway No. 26; westerly along State Highway No. 26 to the west bank of the San Gabriel River; southerly along the west bank of the San Gabriel River to Imperial Highway; westerly on Imperial Highway to State Highway No. 19; southerly along State Highway No. 19 to its intersection with U.S. Highway No. 101, Alternate, at Ximeno Street; southerly along Ximeno Street and its prolongation to the Pacific Ocean; westerly and northerly along the shore line of the Pacific Ocean to a point directly south of the intersection of Sunset Boulevard and U.S. Highway No. 101, Alternate; thence northerly along an imaginary line to point of beginning.